

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

----- INSURANCE CONTRACT

David Cooklock
Plaintiff

versus

COMPLAINT

Principal Financial Group
Defendants

COMES NOW, the plaintiff, David Cooklock, and for her cause of action, in each count, states and alleges

I

That this action is brought pursuant to the ERISA Federal Retirement Act
Fed Stat. 502(a)(1) et al

II

That on June 30, 2006 David Cooklock, the plaintiff, was employed by ABJ, Inc. dba
Points West Realty

III

On June 30, 2006, ABJ, Inc had a policies of long term and short term disability insurance with the Defendant Principal Financial Group, herein after referred to as Principal, which covered it's employees and said policy included the Plaintiff as part of its coverage and was an employee paid plan in which the Plaintiff, David Cooklock, made all the premium and contribution payments.

IV

That on June 20, 2006, the plaintiff had various physical injury and limitations.

V



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That the plaintiff's injuries are permanent in nature, and the plaintiff has exceeded any waiting period.

VI

That the Plaintiff has exhausted all his administrative remedies as required by ERISSA Fed Stat. 502 (a)(1) and the Plaintiff's claim is still denied by the Defendant.

VII

That under the terms and conditions of the short term disability plan the employee is entitled to benefits if he is unable to perform substantial activities of the job that the employer has offered.

VIII

That the employee is unable to perform substantial duties of the job he was performing or any job that the employer offered.

IX

That the Defendant sent the employee to a doctor of their choice, Thomas Jetzer and received a report him, who opined that a Functional Capacity Evaluation dated 5/7/2007 was appropriate, and which is attached here to. The only exception to the FCE made by the Defendant's doctor was that the Plaintiff could do simple keyboard work, at a slow pace.

X

That the defendant failed to make proper inquiry after this report as to whether a major or substantial part of the Plaintiff's work involved computer operation at a pace beyond that listed in his restrictions.

XI

That as of 6/30/06 the employer replaced the employee with another worker and the only offer of work made to the employee was well beyond his capacities, and which included heavy lifting, fine manipulation, and repeated use of the Plaintiff's hands and arms. The Defendant has refused to pay benefits for short or long term disability for the only job offered to the employee by the employer.

XII

That defendant is obligated to pay the short term and long term disability to the plaintiff under the terms of the individual policy and has denied or refused payment.

XIII

That the Plaintiff is entitled to long term disability if he has been disabled for a year and there is no reasonable work he can do.

XIV

That the Plaintiff, by reason of his medical condition or conditions, is unable to perform any sustained or substantial employment.

XV

That the Plaintiff has been awarded Social Security Disability Benefits and has been recognized by the United States Government as being totally disabled.

XVI

That the ERISA plan administrator does not have discretionary authority and the decision of the Defendant is to be reviewed de novo.

XVII

The Defendant has an inherent conflict of interest and heightened review by the court is required.

XVIII

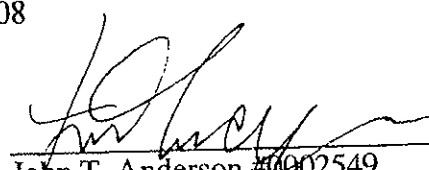
That the value of the short term and long term disability is in an amount in excess of fifty thousand dollars (\$50,000.00)

XIX

That the plaintiff is entitled to recover her attorney's fees, costs interest and disbursements.

WHEREFORE, the plaintiff prays for an award from the court a sum in excess of fifty thousand dollars, from the defendant as well as his costs disbursements, interest, attorney's fees and such other relief as the court may grant.

Dated the 22 of May, 2008



John T. Anderson #0002549
Attorney for Plaintiff
Suite 1100, 120 South Sixth Street.
Minneapolis, MN 55402
(612) 339-1515

Client can: (in pounds)	Rarely	Occasionally	Frequently	Continuously
Floor-to-waist lift	50	40	15	+
Waist-to-crown lift	25	20	8	+
Static push	49.3	-	-	+
Static pull	76.7	-	-	+
Long carry	60	50	20	+

Client can use feet for repetitive movements, as in operating foot controls:

Right				Left				Both			
X	Yes	No		X	Yes	No		X	Yes	No	

Client can use hands for repetitive action such as:

	Simple Grasping				Firm Grasping				Fine Manipulating			
Right	X	Yes	No			Yes	X	No		Yes	X	No
Left	X	Yes	No			Yes	X	No		Yes	X	No

Client can use head and neck in:

Static Position				Frequent Flexing				Frequent Rotating			
X	Yes	No		X	Yes	No		X	Yes	No	

Restriction of activities, for example: being around moving machinery; driving automotive equipment; or any other restrictions due to the physical impairment.

+ Continuous performance of an isolated work task rarely occurs in the work place. Work Well testing methodology assesses work tasks to a frequent basis as reflected in the work place.

Signature of Physician:

Date:

Signature of Therapist:

Date:

[Handwritten Signature] PT, DCS, ATC

5.4.07

(Revised 10-27-04)

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Plaintiff

versus

SUMMONS

Principal Financial Group

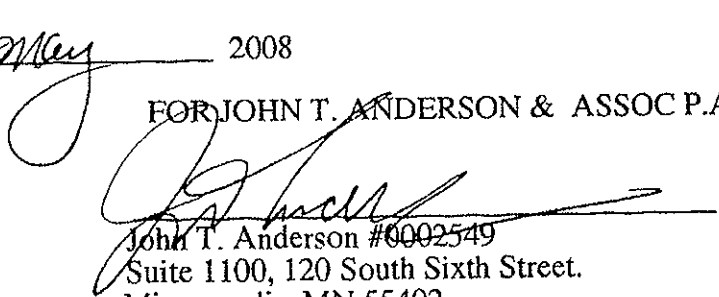
Defendant

THE STATE OF MINNESOTA TO THE ABOVE-NAMED DEFENDENTS

YOU ARE HEREBY SUMMONED AND REQUIRED TO serve upon the plaintiff's attorney an answer to the Complaint which is herewith served upon you, within Twenty (20) days after the service of this Summons, exclusive of the day of service. If you fail judgment by default will be taken against you for the relief demanded in the Complaint.

Dated this 22 of May 2008

FOR JOHN T. ANDERSON & ASSOC P.A.


John T. Anderson #0002549
Suite 1100, 120 South Sixth Street.
Minneapolis, MN 55402
(612) 339-1515

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